

REMARKS

The Office action dated July 6, 2006 has been carefully considered. Claims 1-32 are active in this application. Further examination and reconsideration of the rejection of claims 1-32 are respectfully requested.

The rejection of claims 1-32 under 35 U.S.C. §102(b) as being anticipated by Sellers et al. (U.S. 5, 3,111, 438) is respectfully traversed. However, in order to further the prosecution of this application, claims 1, 22 and 31 have been amended in order to further distinguish the invention from the cited art. Independent claims 1 and 22, now recite “automatically receiving, from a vehicle using wireless communications, actual performance information detected by at least one vehicle sensor.” Claim 31 now recites “receiving a first set of actual performance information sent using wireless communications from a vehicle, as detected by at least one vehicle sensor” and “receiving a second set of actual performance information, received after implementation of the business improvement, sent using said wireless communications from said vehicle, as detected by said at least one vehicle sensor.”

Claims 1, 22 and 32 as amended now clearly define methods and a signal bearing medium, respectively, neither taught nor suggested by Sellers. Further, these claims now serve to draw a clear line of distinction between the invention as claimed and Sellers. More specifically, Sellers concerns an integrated manufacturing system which may be commonly regarded as a database enabling inputs of various information. The “conversations” frequently referenced in Sellers define data accessible by various entities. Whereas, applicants invention permits measurement of the improvement of a business opportunity, such determination is provided, as claimed, in connection with receiving wireless communications from at least one vehicle sensor. A business advantage lies in being able to employ this data more contemporaneously than would be possible should the data only be available once the vehicle arrives at some fixed transmission point, e.g. its garage. The system of Sellers is certainly not a mobile system. Further, there is no

disclosure in Sellers of receiving wireless communications and using data from mobile devices or vehicles in connection with computing a statistic, whether financial ratio or otherwise. It is a non-sequitur to suggest that merely because Sellers maintains at column 77, lines 13-23 that a “conversation may be used to define and maintain information about transporting an item and comments to print on the bill of lading (lines 14-16),” that this teaches automatically receiving actual performance information from at least one vehicle sensor as was formerly recited in applicants’ claims 1 and 22, and further supplemented herein. The inclusion in claims 1, 22 and 32 of the term “wireless communications” further distinguishes applicants’ invention from Sellers. The reference at page 3 of the Office action that suggests Sellers might employ a GPS receiver is indeed and would be indeed at odds with the times. Selective availability (SA) was employed by the government from before the January 31, 1992 filing date of Sellers to January 5, 2000, 6 years after the Sellers patent grant. Selective availability tended to make civilian GPS units much less accurate than possible today. The end of SA ushered in an era where GPS devices became a global utility. Sellers, however, preceded this era. Consequently, it is not likely, and neither is it taught nor suggested by Sellers, that GPS reception or for that matter, reception of wireless data forms a part of the disclosure by Sellers.

Determining financial ratios from data which is necessarily much less than current distinguishes Sellers from applicants’ invention and highlights the benefit of applicants invention as claimed. Applicants methods recited in claims 1 and 22 and the signal bearing medium of claim 32, clearly offer a patentable advantage over Sellers in that current data rather than old data is provided from a vehicle for use in determining benefits, etc.

Claims dependent from claims 1, 22 and 32, are submitted as being patentably distinct from Sellers and merely recite limitations in addition thereto

PATENT

In view of the amendment and remarks, this case is submitted as being in a condition for allowance. Applicants therefore respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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By: Richard A. Bachand
Richard A. Bachand
Attorney for Applicant
Registration No. 25,107

QUALCOMM Incorporated
5775 Morehouse Drive
San Diego, California 92121-2779
Telephone: (858) 845-8503
Facsimile: (858) 658-2502